

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

WASHINGTON MUTUAL BANK,

Plaintiff,

V.

CREST MORTGAGE COMPANY,

Defendant.

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CIVIL ACTION NO. 3: 05-CV-1194-B

MEMORANDUM ORDER

Before the Court is Plaintiff's Motion to Confirm Arbitration Award (doc. 1), filed June 10, 2005, in which Plaintiff asks this Court to confirm the award of an arbitrator pursuant to 9 U.S.C. § 9. According to § 9, confirmation of an award is appropriate only where "the parties in their agreement have agreed that a judgment of the court shall be entered upon the award...." A review of the arbitration agreement in this case, however, shows the absence of an agreement to permit a federal court enter a judgment on the arbitration award. (Pl. Mot. to Confirm Ex. A) Because the Fifth Circuit has indicated this is a jurisdictional requirement, the Court must address it sua sponte. *See Place St. Charles v. J.A. Jones Constr. Co.*, 823 F.2d 120, 124 (5th Cir. 1987); *T & R Enters., Inc. v. Cont'l Grain Co.*, 613 F.2d 1272, 1279 (5th Cir. 1980); *see also P&P Indus., Inc. v. Sutter Corp.*, 179 F.3d 861, 866 (10th Cir. 1999).

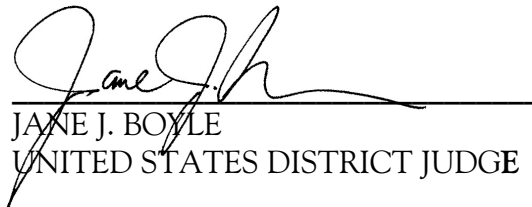
Plaintiff's briefing does not reveal an exception to this jurisdictional requirement, such as consent by the actions of the parties or incorporation of arbitration rules that permit judicial confirmation. *See P&P Indus.*, 179 F.3d at 867 (finding incorporation of AAA rules permitted

judicial confirmation of award); *Place St. Charles*, 823 F.2d at 124 (finding implied consent to jurisdiction by behavior of parties). Therefore, the Court requires further briefing from Plaintiff before it can address the merits of Plaintiff's Motion.

As such, the Court **ORDERS** Plaintiff to file a supplemental brief addressing the concerns raised in this Order and explaining why this Court has jurisdiction over Plaintiff's Motion to Confirm Arbitration Award in the absence of an explicit agreement by the parties. The brief must be filed by **November 18, 2005**. Failure to comply may result in dismissal of this case for lack of subject matter jurisdiction.

**SO ORDERED.**

SIGNED November 2nd, 2005



JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE